

Message Text

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USIA-06 AF-10 ARA-10 EA-07 EUR-12 NEA-10 OIC-02

DHA-02 TRSE-00 PRS-01 PA-01 HEW-04 L-03 H-01

SS-15 NSC-05 SP-02 EPG-02 OES-07 COME-00 EB-07

LAB-04 SIL-01 IOE-00 ORM-02 /143 W

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FM AMEMBASSY PARIS

TO SECSTATE WASHDC PRIORITY 6129

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NESCO

E.O. 11652: NA

TAGS: AORG OCON UNESCO

SUBJ: EXECUTIVE BOARD WORKING GROUP TO STRENGTHEN

UNESCO'S HUMAN RIGHTS PROCEDURES, PARIS, AUGUST 1-5, 1977

REF: A) STATE 162523, B) WARVARIV-FORSTER TELCON

JULY 18, 1977

1. FOLLOWING ARE SUPERMDEL'S COMMENTS IN RESPONSE TO
SPECIFIC QUESTIONS POSED IN REFTELS (A) AND (B).

A. SINCE UNESCO'S SPHERE OF COMPETENCE IN THE
AREA OF HUMAN RIGHTS IS LIMITED TO FIELDS OF EDUCATION,
SCIENCE AND CULTURE, AND ALSO TO THAT OF COMMUNICATION,
WE BELIEVE UNESCO SHOULD NOT MODEL ITSELF ON THE UN,
WHICH IS COMPETENT IN THE ENTIRE FIELD OF HUMAN
RIGHTS. ILO, WHOSE ROLE IN THIS SPHERE IS MORE
SPECIFIC, IS USEFUL AS A STARTING POINT ONLY, BUT COULD
NOT BE FOLLOWED AS A "MODEL" EITHER. THERE, THE
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COMPLAINTS ARE "COLLECTIVE" IN A SENSE THAT
TRADE UNION FREEDOM IS A COLLECTIVE FREEDOM AND
COMPLAINTS RE VIOLATION OF THIS FREEDOM CAN ONLY BE
INTRODUCED BY TRADE UNIONS, WHEREAS IN UNESCO WE ARE
DEALING MOSTLY WITH INDIVIDUAL CASES AND THEY CAN BE
INTRODUCED BY AN INDIVIDUAL. THIS IS AN IMPORTANT
DISTINCTION. WE THEREFORE BELIEVE THAT UNESCO

SHOULD FIND ITS OWN PATH, AS IT HAS ALREADY STARTED TO DO AT THE NAIROBI GENERAL CONFERENCE AND EXBD LAST MAY. WE LOOK TO THE AUGUST WORKING GROUP MEETING AS AN OPPORTUNITY TO HELP THE ORGANIZATION IN THIS REGARD.

B. QUESTION AS TO HOW FAR UNESCO SHOULD BECOME INVOLVED IN PROVIDING PERSONAL PROTECTION FOR INDIVIDUALS ACTIVE IN UNESCO'S SPECIAL FIELDS OF COMPETENCE IS ESSENTIALLY A POLITICAL QUESTION. AT THE SAME TIME IT IS ALSO AN OPEN QUESTION THAT CAN NOT BE EASILY ANSWERED ONE WAY OR ANOTHER. ONE COULD ARGUE, E.G. THAT IF A TEACHER IS TORTURED OR PERSECUTED NOT AS A PROFESSION (I.E. TEACHER) BUT AS AN INDIVIDUAL, UNESCO SHOULD NOT BE INVOLVED. ADMITTEDLY, THERE ARE MANY BORDER LINE CASES HERE THAT WOULD NEED TO BE CONSIDERED ON A CASE BY CASE BASIS. IN THE LIGHT OF 102ND EXBD DISCUSSION WE HAVE TO CONCLUDE THAT MAJORITY OF BOARD MEMBERS WOULD FAVOR A MORE RESTRICTIVE INTERPRETATION OF HUMAN RIGHTS FALLING WITHIN UNESCO'S COMPETENCE AS EXPRESSED IN PARA 131(A) AND (B). IT WOULD BE VERY DIFFICULT TO GET AGREEMENT ON 131 (C) WHICH DEALS WITH THE ABOVE QUESTION.

C. AS REGARDS POTENTIAL CONFLICT OF JURISDICTION WHEN SAME CASE IS BEING CONSIDERED BY MORE THAN ONE BODY, WE TEND TO AGREE WITH PARA 137 (II) OF DOCUMENT 102 EX/19 CONCERNING INADMISSIBILITY OF A COM-
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MUNICATION IDENTICAL WITH ONE SUBMITTED TO OR PENDING BEFORE ANOTHER INTERNATIONAL AUTHORITY TO AVOID DUPLICATION WITHOUT RISKING CASES FALLING BETWEEN JURISDICTIONS WE RECOMMEND THAT HUMAN RIGHTS BODIES WITHIN UN SYSTEM (I.E. UN, UNESCO, ILO AND HCR REFUGEES) SHOULD DEVELOP AND INSTITUTIONALIZE PRACTICE OF EXCHANGING INFORMATION CONCERNING COMMUNICATIONS RECEIVED AND/OR PENDING BEFORE THESE BODIES. REGULARIZED MEETING OF HEADS OF HUMAN RIGHTS DEPARTMENTS WITHIN UN SYSTEM, AS SUGGESTED IN PARA. 162 OF DOCUMENT 102 EX/19 IS INDEED A GOOD IDEA. AS TO CRITERIA FOR DETERMINING "OFFENSIVENESS" OF COMMUNICATIONS, WE BELIEVE THAT SOME GENERAL DEFINITION COULD BE ACCEPTED, E.G. THAT A COMMUNICATION SHOULD NOT BE OFFENSIVE AND/OR INSPIRED EXCLUSIVELY BY POLITICAL MOTIVATIONS. AGAIN, WE SHOULD LOOK TO OTHER UN HUMAN RIGHTS FORUMS FOR USEFUL PRECEDENTS.

D. WE BELIEVE THAT PRESENT PRACTICE OF ENTRUSTING THE SECRETARIAT WITH SOLE RESPONSIBILITY FOR DECIDING WHETHER CONDITIONS IN REGARD TO RECEIVABILITY OF COMMUNICATIONS HAVE BEEN FULFILLED

IS NOT RPT NOT SATISFACTORY. IT SEEMS TO US THAT
THE SECRETARIAT COULD AND SHOULD PERFORM A USEFUL
TECHNICAL FUNCTION: OF REGISTERING ALL COMMUNICATIONS
IN THE ORDER THEY WERE RECEIVED BY UNESCO; OF
RESEARCHING CERTAIN PROVISIONS OF INTERNATIONAL HUMAN
RIGHTS LAW RELEVANT TO A GIVEN COMPLAINT, AND OF
PREPARING THE CASE FOR CONSIDERATION BY THE COMMITTEE
ON CONVENTIONS AND RECOMMENDATIONS (CCR). HOWEVER,
THE POLITICAL DECISION WHETHER OR NOT A COMMUNICATION
IS RECEIVABLE MUST REST WITH THE CCR ALONE OR,
PREFERABLY, WITH ITS SMALL WORKING PARTY SET UP FOR
THIS PURPOSE. WE SHOULD LOOK TO OTHER UN BODIES FOR
PRECEDENTS AND WE HOPE THAT DEPARTMENT WOULD PROVIDE
US WITH USEFUL GUIDANCE IN THIS REGARD.
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E. QUESTION CONCERNING THE ROLE OF NGO'S, MAY
BECOME ONE OF THE MAIN ISSUES AT THE AUGUST MEETING.
IN OUR INTERVENTIONS ON ITEM 5.6.2 AT THE 102ND EXBD
WE STATED THAT US CANNOT AGREE WITH EMPHASIS IN

PARAGRAPH 136 DOCUMENT 102 EX/19 THAT THE POSSIBILITY OF SUBMITTING COMMUNICATIONS SHOULD BE LIMITED TO NGO'S THAT FURNISH EVIDENCE THAT THEY HAVE A "LEGITIMATE" INTEREST IN SO ACTING. OUR POSITION ON THIS POINT WAS NOT ECHOED BY OTHERS. WE MUST THEREFORE CAREFULLY CONSIDER WHETHER TO CONTINUE PRESSING OUR ABOVE POINT OR TO SEARCH FOR SOME COMPROMISE SOLUTIONS. DEPARTMENT'S GUIDANCE WOULD BE VERY MUCH APPRECIATED.

F. YES, WE AGREE WITH PARA 144 OF DOCUMENT 102 EX/19 THAT FAVORS SOME BROADENING OF THE CCR'S TERMS OF REFERENCE, INCLUDING EXPANDING ITS TITLE TO "COMMITTEE ON HUMAN RIGHTS AND CONVENTIONS AND RECOMMENDATIONS IN EDUCATION". SUCH A BROADENING, LIMITED OFFICIAL USE

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WE BELIEVE, MIGHT BE PARTICULARLY USEFUL FOR US OBTAINING MEMBERSHIP ON NEW RENAMED COMMITTEE, IN SPITE OF US NON-RATIFICATION OF THE CONVENTIONS IN QUESTION. WE ALSO AGREE WITH PARA 145 CONCERNING APPROPRIATE STRENGTHENING OF THE INTERCESSORY AUTHORITY OF THE DIRECTOR-GENERAL AND OF HIS GOOD OFFICES ROLE.

FURTHERMORE, IT IS IMPORTANT IN THE NEW PROCEDURE TO ALLOW FOR A NECESSARY COMMUNICATION WITH THE ALLEGED "VICTIM", WHENEVER IT IS POSSIBLE, AS WELL AS WITH THE AUTHOR OF COMMUNICATION, BE HE A PRIVATE INDIVIDUAL OR AN INSTITUTION.

G. WE TEND TO AGREE WITH PARA 146 9*
\$9:7.3,5 102 EX/19 THAT THE PROPER FORUM IN WHICH TO DISCUSS "QUESTIONS" CONCERNING HUMAN RIGHTS IS THE EXECUTIVE BOARD, MEETING IN PRIVATE. THIS SHOULD INCLUDE BOTH CATEGORIES OF "QUESTIONS", I.E. THOSE REFERRED TO EXBD BY THE CCR INVOLVING ESTABLISHED PATTERN OF SERIES OF INDIVIDUAL CASES, AS WELL AS QUESTIONS WHICH A MEMBER STATE SUBMITTED TO EXBD FOR CONSIDERATION. NOT BEING AN INTERNATIONAL TRIBUNAL, UNESCO'S PRACTICAL CONTRIBUTION TO SOLVING THESE QUESTIONS AND "CASES" IS RATHER LIMITED. IT CAN INITIATE A DIALOGUE BETWEEN THE ORGANIZATION AND THE STATE IN QUESTION; IT CAN EXTEND SERVICES OF CONCILIATION AND "GOOD OFFICE", BUT IT CAN ALSO MOBILIZE PUBLIC OPINION BY WAY OF MAKING PUBLIC ITS FINDINGS AND OBSERVATIONS, INCLUDING SPECIAL AND/OR GENERAL REPORTS ON A GIVEN CASE OR SITUATION. THIS LAST ASPECT IS OBVIOUSLY OF GREATEST IMPORTANCE AND WILL BE SUBJECT OF LIVELY DISCUSSION AT THE AUGUST

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MEETING. DEPARTMENT'S GUIDANCE ON THIS KEY POINT WOULD BE GREATLY APPRECIATED.

H. ON JUNE 30 AND JULY 1, 1977, UNESCO ORGANIZED A MEETING OF DIRECTORS OF HUMAN RIGHTS DEPARTMENTS, IN WHICH UN, ILO, HCREFUGEES, AND COUNCIL OF EUROPE WERE REPRESENTED, TO COORDINATE ACTIVITIES RELATING TO TEACHING OF HUMAN RIGHTS. THIS WAS THE FIRST MEETING OF ITS KIND IN WHICH ONE (COUNCIL OF EUROPE) OF THE TWO REGIONAL INTERGOVERNMENTAL AUTHORITY FOR THE PROECTION OF HUMAN RIGHTS PARTICIPATED. THE OTHER , OAS, FOR VARIOUS OF TECHNICAL REASONS COULD NOT ATTEND. IT WAS AGREED AT THAT MEETING THAT FURTHER COORDINATION IN THIS FIELD SHOLD BE CONTINUED, BUT ON A VERY INFORMAL BASIS. GIVEN KNOWN POLITICAL SENSITIVITY IN SOME QUARTERS CONCERNING THE ABOVE TWO REGIONAL INSTITUTIONS, IT WOULD NOT BE VERY PRODUCTIVE TO PRESS FOR GREATER COOPERATIVE ARRANGEMENTS BETWEEN UNESCO AND THESE TWO REGIONAL BODIES.

I. WE AGREE WITH THE LINE SUGGESTED IN PARA . (I) OF REFTEL CONCERNING IMPLEMENTATION OF PARA 10 (A) OF 19TH GENERAL CONFERENCE RESOLUTION 12.1, AND WILL BE SELLING IT TO SECRETARIAT AND OTHER PERMDELS REPRESENTED ON THE BOARD. WE UNDERSTAND THE DG WILL HAVE TO SAY SOMETHING ON THIS SUBJECT MATTER AT THE 104 TH EXBD NEXT SPRING.

2. PLEASE CONVEY ABOVE COMMENTS AND RECOMMENDATIONS TO PROFESSOR BURGENTHAL WHO WILL BE VISITING DEPT. EARLY NEXT WEEK.

3. WE ALSO TAKE THIS OPPORTUNITY TO CALL DEPT'S. ATTENTION TO SPECIFIC REQUIREMENTS CONCERNING ASSIGNMENT OF DEPUTIES, IN LIEU OF EXBD MEMBER ROBERT KAMM, SPELLED OUT IN PARA. (E) OF PARIS 17879 TO WHICH
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Message Attributes

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Disposition Date: 22 May 2009
Disposition Event:
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